

(Reprinted with amendments adopted on June 1, 2023)

SECOND REPRINT

S.B. 435

SENATE BILL NO. 435—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE OFFICE OF FINANCE  
IN THE OFFICE OF THE GOVERNOR)

MARCH 27, 2023

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to Medicaid.  
(BDR 38-1069)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to Medicaid; requiring the provision of certain information to the operator of a hospital or rural hospital concerning the use of revenue generated by certain proposed assessments; prohibiting the continued imposition of such an assessment under certain circumstances; revising the authorized uses of the revenue generated from an assessment authorized to be imposed on operators of certain agencies and facilities; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law authorizes the Division of Health Care Financing and Policy of the  
2 Department of Health and Human Services to impose an assessment on each  
3 operator of an agency to provide personal care services in the home and each  
4 operator of a medical facility that is required to obtain a license if, after polling the  
5 operators, at least 67 percent of those operators vote in favor of the assessment.  
6 (NRS 422.3794) Existing law authorizes the expenditure of the money generated  
7 from such an assessment only to: (1) provide supplemental payments or enhanced  
8 rates of reimbursement under Medicaid to operators upon whom the assessment is  
9 imposed; and (2) administer provisions of law governing such assessments. (NRS  
10 422.37945) **Section 2** of this bill authorizes the money to also be used to provide  
11 supplemental payments or enhanced rates of reimbursement to operators that are  
12 not subject to the assessment if such expenditure was identified as a potential use of  
13 the assessment in the polling of operators which received an affirmative vote from  
14 at least 67 percent of the operators on whom the assessment was to be imposed.



15 **Section 2** additionally authorizes the Division to use money generated from an  
16 assessment imposed on private hospitals or rural hospitals to provide additional  
17 supports and services under Medicaid for recipients of Medicaid with serious  
18 behavioral health conditions. **Section 2** provides that not more than 15 percent of  
19 the total amount of money generated each year by such an assessment may be used  
20 for administrative costs and to fund such supports and services. **Section 1.8** of this  
21 bill requires the Division to provide each operator of a hospital or rural hospital  
22 who is polled concerning the imposition of such an assessment of the amount of the  
23 assessment that will be used for those purposes. **Section 1.8** also prohibits the  
24 continued imposition of such an assessment where state or federal law or  
25 regulations prohibit or alter the authorized uses of the revenue generated by the  
26 assessment. **Sections 1.2 and 1.4** of this bill define the terms “hospital” and “rural  
27 hospital,” respectively. **Section 1.6** of this bill makes conforming changes to  
28 indicate the proper placement of **sections 1.2 and 1.4** in the Nevada Revised  
29 Statutes.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 422 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 1.2 and 1.4 of this act.

3 **Sec. 1.2.** *“Hospital” has the meaning ascribed to it in*  
4 *NRS 449.012.*

5 **Sec. 1.4.** *“Rural hospital” has the meaning ascribed to it in*  
6 *NRS 449.0177.*

7 **Sec. 1.6.** NRS 422.3791 is hereby amended to read as follows:  
8 422.3791 As used in NRS 422.3791 to 422.3795, inclusive,  
9 *and section 1.2 and 1.4 of this act*, unless the context otherwise  
10 requires, the words and terms defined in NRS 422.37915 to  
11 422.37935, inclusive, *and sections 1.2 and 1.4 of this act* have the  
12 meanings ascribed to them in those sections.

13 **Sec. 1.8.** NRS 422.3794 is hereby amended to read as follows:  
14 422.3794 1. Except as otherwise provided in this section,  
15 after polling the operators in an operator group and receiving an  
16 affirmative vote from at least 67 percent of the operators in that  
17 operator group, the Division may impose by regulation, against each  
18 operator in the operator group, an assessment in an amount equal to  
19 a percentage of the net revenue generated by the agency to provide  
20 personal care services in the home or medical facility, as applicable,  
21 from providing care in this State during a calendar or fiscal year.  
22 The Division shall adopt:

23 (a) Regulations prescribing the percentage that must be used to  
24 calculate the amount of the assessment, the date on which the  
25 assessment is due and the manner in which the assessment must be  
26 paid; and

27 (b) Any other regulations necessary or convenient to carry out  
28 the provisions of this section.



1 2. *Before polling the operator of a hospital or a rural hospital*  
2 *pursuant to subsection 1, the Division shall provide the operator a*  
3 *statement of the amount of the revenue generated by the proposed*  
4 *assessment that will be used for the purposes prescribed by*  
5 *paragraphs (c) and (d) of subsection 3 of NRS 422.37945.*

6 3. The revenue from an assessment imposed pursuant to  
7 subsection 1 must be deposited in the Account.

8 ~~[3.]~~ 4. An assessment imposed pursuant to subsection 1 must  
9 comply with the provisions of 42 C.F.R. § 433.68. *The revenue*  
10 *generated by such an assessment must be used only for the*  
11 *purposes authorized by NRS 422.37945.* An assessment must not  
12 be imposed pursuant to subsection 1 if *state or* federal law or  
13 regulations prohibit ~~[using]~~ *or alter the use of* the revenue generated  
14 by the assessment for the purposes prescribed in NRS 422.37945. If  
15 new *state or* federal law or regulations imposing such a prohibition  
16 *or making such an alteration* are enacted or adopted, as applicable:

17 (a) An assessment must not be collected after the effective date  
18 of the law or regulations; and

19 (b) Any money collected during the calendar or fiscal year, as  
20 applicable, in which the ~~[federal]~~ law or regulations become  
21 effective must be returned to the operators from whom it was  
22 collected.

23 ~~[4.]~~ 5. An operator shall submit to the Division any  
24 information requested by the Division for the purposes of carrying  
25 out the provisions of this section.

26 **Sec. 2.** NRS 422.37945 is hereby amended to read as follows:

27 422.37945 1. The Account to Improve Health Care Quality  
28 and Access is hereby created in the State General Fund. The  
29 Division shall administer the Account. The revenue from  
30 assessments and penalties imposed on the operators in each operator  
31 group must be accounted for separately in the Account.

32 2. The interest and income on the money in the Account, after  
33 deducting any applicable charges, must be credited to the Account.

34 3. ~~[The]~~ *Subject to the provisions of subsections 4 and 5,*  
35 money in the Account must be expended to:

36 (a) Provide supplemental payments or enhanced rates of  
37 reimbursement to operators ~~[in the operator group upon whom an~~  
38 ~~assessment was imposed]~~ pursuant to an upper payment limit  
39 program established under the provisions of 42 C.F.R. § 447.272 or  
40 447.321;

41 (b) Provide supplemental payments to operators ~~[in the operator~~  
42 ~~group upon whom an assessment was imposed]~~ who provide care to  
43 recipients of Medicaid in addition to the reimbursements those  
44 operators would otherwise receive for providing such care; ~~[and]~~



1 (c) Administer the provisions of NRS 422.3791 to 422.3795,  
2 inclusive ~~f~~

3 ~~—4.1~~ ; and

4 (d) *For money generated by an assessment imposed against*  
5 *the operators of private hospitals or private rural hospitals, fund*  
6 *additional supports and services under Medicaid, as approved by*  
7 *the Director, to improve access to behavioral health care for*  
8 *recipients of Medicaid with serious behavioral health conditions,*  
9 *including, without limitation, psychiatric disorders, in order to*  
10 *reduce the burden imposed by such recipients on the emergency*  
11 *medical services and inpatient services of the hospitals in this*  
12 *State.*

13 4. *Not more than 15 percent of the total amount of money*  
14 *generated each year by assessments against the operators of*  
15 *private hospitals or private rural hospitals may be expended for*  
16 *the purposes described in paragraphs (c) and (d) of subsection 3.*  
17 *Money allocated for such expenditures must be used first for the*  
18 *purpose described in paragraph (c) of subsection 3. If money*  
19 *allocated for such expenditures remains after all necessary*  
20 *expenditures are made for that purpose, the Division shall expend*  
21 *the remaining money for the purpose described in paragraph (d)*  
22 *of subsection 3.*

23 5. *Money in the Account that was generated by a specific*  
24 *assessment must not be expended to provide supplemental*  
25 *payments or enhanced rates of reimbursement pursuant to*  
26 *subsection 3 to operators in an operator group that is not subject*  
27 *to the assessment unless such expenditure was identified as a*  
28 *potential use of revenue when the assessment received an*  
29 *affirmative vote of at least 67 percent of the operators in the*  
30 *operator group subject to the assessment pursuant to subsection 1*  
31 *of NRS 422.3794.*

32 6. Any money remaining in the Account at the end of a fiscal  
33 year does not revert to the State General Fund, and the balance of  
34 the Account must be carried forward to the next fiscal year.

35 7. *The Director shall seek all necessary federal authority to*  
36 *capture all available federal financial participation to provide*  
37 *additional supports and services as described in paragraph (d) of*  
38 *subsection 3.*

39 **Sec. 3.** This act becomes effective upon passage and approval.

